REMARKS

[0001]   Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-14 are presently pending. Claims amended herein are 1, and 6-11. Claims withdrawn or cancelled herein are 15-43.

Claim Amendments and Additions

[0002]   Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, and 6-11 herein. Applicant amends claims to clarify claimed features. Such amendments are made to expedite prosecution and more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

[0003]   Support for the amendments to claims 1 is found in the specification at least at p. 3 lines 3-7, and p. 7 lines 9-12. Support for the amendments to claims 6-10 is found in the specification at least at p. 7 lines 3-5. Support for the amendments to claim 11 is found in the specification at least at p. 11 lines 5-23, p. 12, lines 13-19, and p. 15 line 22–p. 16 line 15. New claim 44 incorporate subject matter found in claims 11-14 and is allowable for at least the same reasons that claims 11-14 are allowable.

Substantive Matters

Claim Rejections under § 101

[0004] Claims 6-14 are rejected under 35 U.S.C. § 101. Applicant respectfully traverses this rejection. Applicant herein submits that claims 6-14 of the instant application are to be construed—now and in the future--to be limited to subject matter deemed patentable in accordance with section 101 of Title 35 U.S.C., and as interpreted by appropriate and authoritative Article III entities. In light of this disclaimer, Applicant asserts that these claims are allowable. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0005] Furthermore, in light of the amendments presented herein, Applicant respectfully submits that these claims comply with the patentability requirements of §101 and that the §101 rejections should be withdrawn. Applicant further asserts that these claims are allowable. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0006] If the Examiner maintains the rejection of these claims, then Applicant requests additional guidance as to what is necessary to overcome the rejection.

Claim Rejections under § 102

[0007] The Examiner rejects claims 1-14 under § 102. For the reasons set forth below, the Examiner has not shown that the cited references anticipate the rejected claims.

[0008]   Accordingly, Applicant respectfully requests that the § 102 rejections be withdrawn and the case be passed along to issuance.

[0009]   The Examiner's rejections are based upon the following reference alone: **Graupner:** *Graupner, et al.,* US Patent No. 7,035,930 (issued April 25, 2006).

Overview of the Application

[0010]   In accordance with certain aspects of the design time validation of systems, a description of a system being designed and a description of an environment are received. Both of the received descriptions are used to validate the system against the environment while the system is being designed and prior to attempting to deploy the system.

Cited References

[0011]   The Examiner cites Graupner as the primary reference in the anticipation-based rejections.

Graupner

[0012]   Graupner describes a method and framework for identifying allociatons of computing resources in a complex, distributed data processing environment. The invention generates mappings of service nodes that are described in user-selected service models to server nodes that are described in

user-selected server models, as a function of the associated sets of demand and capacity attributes.

Anticipation Rejections

[0013]   Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.[1]   Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.[2]

Based upon Graupner

[0014]   The Examiner rejects claims 1-14 under 35 U.S.C. § 102(e) as being anticipated by Graupner. Applicant respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1

[0015]   Applicant submits that Graupner does not anticipate this claim because it does not disclose at least the following features as recited in this claim (with emphasis added):

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[1] "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

[2] See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

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- "receiving...a description of a system being designed **but not yet deployed;"**

- "receiving...a description of **an environment that simulates a target-deployment environment in which the system is to be deployed;"**
- "using...both of the received descriptions to validate the system against the environment **while the system is being designed and prior to attempting to deploy the system."**

[0016]   The Examiner indicates (Action, p. 3) the following with regard to this claim:

> **Regarding claim 1**, Graupner teaches a method comprising:
>
> receiving a description of a system being designed (Col. 2, line 65 – Col. 3, line 1);
>
> receiving a description of an environment (Col. 3, lines 1 – 5); and
>
> using both of the received descriptions to validate the system against the environment (Col 10, line 60 Col. 11, line 1) while the system is being designed and prior to attempting to deploy the system.

[0017]   Graupner teaches "a method and framework for identifying optimal allocations of computing resources". (Graupner, abstract, summary) Optimizing allocations of computing resources is not the same as, "validat[ing] the system against the environment while the system is being designed and prior to attempting to deploy the system," as recited in this claim.   Rather than

evaluating whether a system (e.g., a software application) will run in a particular target-deployment environment (e.g., data center) prior to deployment of the system, Graupner "generates an optimized mapping of service nodes in a user-selected service model to server nodes in a user selected server model as a function of the associated sets of demand and capacity attributes," (Graupner, summary).

[0018]   Furthermore, this claim recites a "system being designed but not yet deployed" and other actions are performed relative to a deployment of the system. However, the "thing" being designed by Grauper is an optimal arrangement or intercommunication of computing resources. In other words, Graupner is designing a deployment model.   Graupner's optimal deployment model itself is not deployed.   Therefore, Graupner does not disclose a "system being designed but not yet deployed," as recited in the amended claim.

[0019]   Consequently, Graupner does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 2-5

[0020]   These claims ultimately depend upon independent claim 1.   As discussed above, claim 1 is allowable.   It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable.   Additionally, some or all of these claims may also be allowable for additional independent reasons.

Independent Claim 6

[0021] Applicant submits that Graupner does not anticipate this claim because it does not disclose at least the following features as recited in this claim (with emphasis added):

- "accessing an application description that describes **an application in the process of being designed** by a program running on the one or more processors;"

- "validating the application, using the application description, **against a simulated environment and prior to deployment.**"

[0022] The Examiner indicates (Action, p. 3) the following with regard to this claim:

> **Regarding claim 6,** Graupner teaches one or more computer readable media having stored thereon a plurality of instructions that, when executed by one or more processors, causes the one or more processors to:
>
> access a system description that describes a system in the process of being designed by a program running on the one or more processors (Col. 2, line 65 – Col. 3, line 1); and
>
> validate the system, using the system description, against a simulated environment (Col 10, line 60 Col. 11, line 1).

[0023] As amended, the described operations of the claim act upon an application. For example:

- "accessing an application description..."
- "...application in the process of being designed..."
- "validating the application..."

[0024] Simply stated, Graupner actions are not directed towards applications, but rather to optimizations of a deployment network. For example, instead of validation of an application "against a simulated environment and prior to deployment" (as recited in the claim), Graupner teaches "capacity and demand relationships between the layers of models that describe software and hardware in a distributed computing environment", (Col. 2 lines 62-65 and Fig. 1).

[0025] Graupner generates an optimized deployment solution. Graupner does not validate an application against a simulated environment prior to deployment.

[0026] Consequently, Graupner does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 7-10

[0027] These claims ultimately depend upon independent claim 6. As discussed above, claim 6 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Independent Claim 11

[0028] Applicant submits that Graupner does not anticipate this claim because it does not disclose at least the following features as recited in this claim:

- <u>a verifier configured to check one or more documents describing a software application for errors in order for the loader to load;</u>
- a loader configured to load <u>the</u> one or more documents describing <u>the software application</u>, the <u>software application</u> being designed when the one or more documents are loaded;
- a simulator configured to simulate an environment of a data center, and validate <u>the</u> <u>software application</u> against the environment <u>prior to deployment, and return a result of the validation</u>

[0029] The Examiner indicates (Action, p. 4) the following with regard to this claim:

> a loader configured to load one or more documents describing a system, the system being designed when the one or more documents are loaded (Col. 6, lines 1 – 10);
>
> a simulator configured to simulate an environment of a data center and validate the system against the environment (Col. 4, lines 39 – 50); and
>
> the apparatus being separate from the data center.

[0030] As indicated above, the Examiner relies upon (Col. 6, lines 1-10) of Graupner as disclosing the claimed loader. Reproduced below for the

convenience of the reader is the portion that the Examiner relies upon to support the rejection:

> In one embodiment, models are described for internal processing in a Lisp-like input language. In another embodiment XML representations are generated and are used for external access and processing of those descriptions. In an example embodiment, the layered relationships between the models are accomplished by recursively defining the layered relationships using the features of the selected language. These descriptions are interpreted by a model interpreter that translates the descriptions into demand and capacity attributes for purposes of correlation.

[0031]   After thorough review of this section, Applicant is unable to identify what the Examiner equates to the claimed loader. Graupner discloses no "loader", "loader configured to load", "load the one or more documents", or "load the one or more documents describing the software application being designed". Applicant respectfully asks the Examiner, in the next action, to point out **with particularity** where Graupner discloses that which the Examiner believes is equivalent to the claimed loader?

[0032]   With regard to the simulator element of the claim, Applicant respectfully submits that the Examiner has not identified, with particularity, where Graupner discloses a validation of the claim. As now amended, claim 11 recites, "a simulator configured to simulate an environment of a data center, and validate the software application against the environment prior to deployment, and return a result of the validation." Graupner fails to disclose this.

[0033]   Furthermore, Applicant amends the claim to add a "verifier", specify action on a "software application" indicate timing occurring "prior to

deployment", and indicate that the simulator also returns "a result of the validation." Graupner fails to disclose these things as well.

[0034]   Consequently, Graupner does not disclose all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 12-14

[0035]   These claims ultimately depend upon independent claim 11. As discussed above, claim 11 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Dependent Claims

[0036]   In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0037] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action**. Please call or email me at your convenience.

Respectfully Submitted,

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Representatives for Applicant

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